SEP 20
MICHAEL RODAK, JR.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-765

INTERNATIONAL LADIES' GARMENT WORKERS' UNION, UPPER SOUTH DEPARTMENT, AFL-CIO, *Petitioner*

v.

QUALITY MANUFACTURING COMPANY AND NATIONAL LABOR RELATIONS BOARD

On Writ of Certiorari to the United States Court of Appeals For The Fourth Circuit

No. 73-1363

NATIONAL LABOR RELATIONS BOARD, *Petitioner*

v.

J. WEINGARTEN, INC.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF OF PETITIONER IN NO. 73-765 IN OPPOSITION TO MOTION OF CHAMBER OF COMMERCE FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

MAX ZIMNY
1710 Broadway
New York, New York 10019

BERNARD DUNAU
912 Dupont Circle Bldg., N.W.
Washington, D. C. 20036

BERNARD RUBENSTEIN
BERNARD P. JEWELER
10 Light Street
Baltimore, Maryland 21202

Attorneys for Petitioner in No. 73-765

PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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BRIEF OF PETITIONER IN NO. 73-765 IN OPPOSITION TO MOTION OF CHAMBER OF COMMERCE FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

Petitioner in No. 73-765 opposes the motion of the Chamber of Commerce for leave to file a brief as *amicus curiae* in support of the position of Quality

Manufacturing Company in No. 73-765 and of J. Weingarten, Inc. in No. 73-1363. The petitions for writs of certiorari in each case were granted on the same day (April 29, 1974), present a common question, and were "set for oral argument in tandem."

The proffered *amicus* brief is altogether out of time. Rule 42(2) of this Court's Rules provides that an *amicus* brief shall be "presented within the time allowed for the filing of the brief of the party supported." Quality and Weingarten each filed their briefs on August 12, 1974. The *amicus* brief and the attached motion for leave to file it were not submitted until September 16, 1974, more than a month after the briefs of the parties to be supported had already been filed.

No reason justifying so untimely a filing is given. The petitions were granted on April 29, 1974, more than four and one-half months ago, and the briefs of the parties to be supported were filed August 12, 1974, more than a month ago. There was thus ample opportunity to present a timely brief.

While we fully appreciate the need to accommodate busy counsel, no reason is stated in the motion to extenuate the untimeliness of the brief. On the contrary, untimeliness has become a litigating habit with the Chamber of Commerce.[1] Respect for the obligation to achieve moderate compliance with the requirements of Rule 42(2) can only be inculcated by denying

[1] See pages 3-4 of the Memorandum In Opposition To Motion Of Chamber of Commerce For Leave To File Brief Amicus Curiae in *Florida Power & Light Co.* v. *I.B.E.W.*, and *N.L.R.B.* v. *I.B.E.W.*, Nos. 73-556 and 73-795. We are informed that the Chamber's motion to file an out-of-time *amicus* brief was denied in those cases.

habitual motions, unexplained and unjustified, for leave to file untimely *amicus* briefs.

For these reasons the motion for leave to file a brief as *amicus curiae* should be denied.

Respectfully submitted,

MAX ZIMNY
1710 Broadway
New York, New York 10019

BERNARD DUNAU
912 Dupont Circle Bldg., N.W.
Washington, D. C. 20036

BERNARD RUBENSTEIN
BERNARD P. JEWELER
10 Light Street
Baltimore, Maryland 21202

Attorneys for Petitioner in No. 73-765

September, 1974